

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

LARRY MALLARD,

Plaintiff,

-against-

9:21-CV-1080 (LEK/TWD)

STEVEN M. REDNER, *et al.*,

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following an Order and Report-Recommendation issued by the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Dkt. No. 65 (“Order and Report-Recommendation”). On October 28, 2022, Judge Dancks ordered that Plaintiff’s motion to amend, Dkt. No. 51, be granted in part and denied in part, Order and R. & R. at 3–14, and recommended that Defendant’s motion to dismiss, Dkt. No. 44, be denied as moot, Order and R. & R. at 13–15.

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Urena v. People of State of New York, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). Clear error “is present when upon review of the entire record, the court is left with the definite and firm conviction that a mistake has been committed.” Rivera v. Fed. Bureau of Prisons, 368 F. Supp. 3d 741, 744 (S.D.N.Y. 2019).

No objections have been raised in the allotted time with respect to Judge Danck's Report-Recommendation. See Dkt. After carefully examining the record, the Court has determined that her Report-Recommendation finding that Defendant's motion to dismiss should be denied as moot, Order and R. & R. at 13–15, evinces no clear error or manifest injustice.

Accordingly, it is hereby:


**ORDERED**, that the Report-Recommendation contained within the Order and Report-Recommendation (Dkt. No. 65) is **APPROVED and ADOPTED in its entirety**; and it is further

**ORDERED**, that Defendant's motion to dismiss (Dkt. No. 44) is **DENIED as MOOT**; and it is further

**ORDERED**, that the Clerk serve a copy of this Decision and Order on all parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

DATED: January 25, 2023  
Albany, New York



LAWRENCE E. KAHN  
United States District Judge